



County of Hawai'i

WINDWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

APR 14 2014

130 Holdings LLC
519 Manono Street
Hilo, HI 96720

Gentlemen:

Special Permit No. 870 (Docket No. 94-000003)

Applicant: 130 Holdings LLC

Request: Five-Year Time Extension to Comply with Condition No. 2 (Time to Complete Construction) and Additional Amendments to Conditions of Special Permit No. 870, Which Allowed the Development of the Orchidland Trade Center of 2.3 Acres of Land

Tax Map Key: 1-6-010:083

The Windward Planning Commission, at its duly held public hearing on April 3, 2014, voted to approve your request for amendments to Condition Nos. 2 (time to complete construction), 5 (access) and 7 (hours of operation) and deny request for amendments to Condition Nos. 3 (design guidelines), 4 (water storage) and 6 (intersection improvements) of Special Permit No. 870, which allowed the establishment of the Orchidland Trade Center on 2.311 acres of land situated within the State Land Use Agricultural District. The property is located within the Orchidland Estates Subdivision on the northwest corner of Orchidland Drive and 34th Street, Orchidland Estates, Kea'au, Puna, Hawai'i.

Approval of the request is based on the following:

1. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. If County water becomes available for this project, the applicant(s) shall submit the anticipated maximum daily water usage calculations as prepared by a

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APR 14 2014

professional engineer licensed in the State of Hawai'i and submit a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within 180 days from the effective date of this amended permit.

3. Construction of the proposed development shall be completed within five (5) years from the effective date of this amendment. This time period shall include securing Final Plan Approval from the Planning Director in accordance with the Zoning Code. Plans shall identify proposed structure(s), fire protection measures, access roadway, driveway and parking stalls. Landscaping shall be indicated on the plans for the purpose of mitigating any potential adverse noise or visual impacts to adjoining parcels. Landscaping shall be provided in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) standards for CV zones adjoining a RS zone.
4. The applicants shall comply with the design guidelines in the development of the proposed regional trade center as detailed by the Orchidland Estates Community Association in their letter to the Planning Director dated February 24, 1994, except for the requirement for the project to operate on county water and provide an additional fire hydrant.
5. The applicant shall develop sufficient water storage to meet the requirements of the Department of Health and the Fire Department for sanitation and firefighting purposes for the proposed development. The storage facility shall be completed prior to Certificate of Occupancy and kept filled with enough water to meet the applicable Department of Health and Fire Department requirements. If an improvement district or similar project is proposed which would make county water available to the property, the owner shall participate and pay its fair share of any applicable construction costs and connect to the County water system.
6. The applicant shall provide pavement improvements to the northern half of Orchidland Drive along the subject property's entire Orchidland Drive frontage meeting with the Department of Public Works Standard Detail R-33 for Rural Collector Standards, prior to the issuance of a certificate of occupancy for any portion of the proposed project.
7. Channelization, signalization and street lighting improvements to the intersection of Highway 130 and Orchidland Drive shall be provided by the applicant if required by the Department of Transportation, prior to the issuance of a certificate of occupancy for any portion of the proposed development.

8. The regional trade center operations shall be limited to 6:00 a.m. to 11:00 p.m. Uses permitted within the proposed regional trade center shall be limited to those uses specified by the applicants within the Planning Director's Background Report dated May 10, 1994 as Exhibit E - Orchidland Trade Center – Project Overview and food service uses.
9. The applicant shall provide an 8-foot high chain link fence or of comparable security effect along the boundaries with the adjacent properties identified by TMK: 1-6-10: 46 and 81.
10. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
11. The applicant(s) shall comply with applicable laws, rules and regulations of the affected agencies, including those of the Department of Health and the Fire Department.
12. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being complied. This condition shall remain in effect until all of the conditions of approval have been complied and the Planning Director acknowledges that further reports are not required.
13. If the applicants should require an additional extension of time, the Planning Director shall submit the applicants' request to the Planning Commission for appropriate action.

Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke this permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Approval of this amendment is based on the reasons given in the attached recommendation report.

130 Holdings LLC

Page 4

Should you have any questions, please contact Daryn Arai of the Planning Department at 961-8288, ext 8142.

Sincerely,



Ronald Gonzales, Chairman
Windward Planning Commission

L130holdingsamendspp870wpc

Enclosure: PC Recommendation Report

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
State Department of Transportation
State DLNR-HPD
Mr. Gilbert Bailado

COUNTY OF HAWAII
PLANNING COMMISSION RECOMMENDATION

130 HOLDING LLC

AMENDMENT TO CONDITION NOS. 2, 3, 4, 5, 6 & 7 OF SPECIAL PERMIT NO. 870

The applicant is requesting amendments to various conditions of Special Permit No. 870, which was originally approved to allow the establishment of a regional trade center on 2.311 acres of land. General services approved for the regional trade center include a variety of home, garden and animal supplies; catchment supplies, sales & service; solar water heaters; office space for service businesses such as electrical, plumbing, landscaping, gardening, auto repair, farmer cooperative and home business outlet. Additionally, the permit was amended in 2003 to include food service uses (restaurant). The following conditions are requested to be amended by the applicant:

Condition No. 2 (time to complete construction): The applicant is requesting a 5-year time extension to complete construction of the proposed development. The condition states the following:

“Construction of the proposed development shall be completed within five (5) years from the effective date of this amendment. This time period shall include securing Final Plan Approval from the Planning Director in accordance with the Zoning Code. Plans shall identify proposed structure(s), fire protection measures, access roadway, driveway and parking stalls. Landscaping shall be indicated on the plans for the purpose of mitigating any potential adverse noise or visual impacts to adjoining parcels. Landscaping shall be provided in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) standards for CV zones adjoining a RS zone.”

The applicant states that they have made significant progress since the last time extension approval in 2008. There have been two (2) building shells constructed that are stubbed out with electricity and plumbing. There have also been significant infrastructure improvements including drywells, waterlines, a septic system and drain lines. The applicant states that they have invested one million dollars towards this

project. The Planning Department recommends that this amendment request for Condition No. 2 **be approved**.

Condition No. 3 (comply with design guidelines): The applicant is requesting that Condition No. 3 be deleted. The applicant states that most of the requirements detailed in Orchidland Estates Community Association's letter dated February 24, 1994 are no longer applicable. The condition states the following:

"The applicants shall comply with the design guidelines in the development of the proposed regional trade center as detailed by the Orchidland Estates Community Association in their letter to the Planning Director dated February 24, 1994, except for the requirement for the project to operate on county water and provide an additional fire hydrant."

The community association's letter dated February 24, 1994 (P.D. Exhibit 2) was an agreement between the association and the applicant by which the applicant agreed to abide by the conditions stated within the Association's letter that was subsequently incorporated as conditions within the Planning Commission's approval. The Orchidland Estates Community Association requested not to delete this condition. Therefore, it is recommended that the amendment request **be denied** at this time.

Condition No. 4 (water storage): The applicant states that they have entered into an agreement with Orchidland Gulsons LLC to connect to the existing waterline and that construction plans have been approved. They are requesting that the condition be amended to allow for either on-site water storage or connection to County water. The condition states the following:

"The applicant shall develop sufficient water storage to meet the requirements of the Department of Health and the Fire Department for sanitation and firefighting purposes for the proposed development. The storage facility shall be completed prior to Certificate of Occupancy and kept filled with enough water to meet the applicable Department of Health and Fire Department requirements. If an improvement district or similar project is proposed which would make county water available to the property, the owner shall participate and pay its fair share of any applicable construction costs."

When this project was originally approved, the applicant was required to connect to County water and to provide a fire hydrant based on the February 24, 1994 agreement letter between the community association and the applicant. Although County water was supplying Orchidland Estates Convenience Center across Orchidland Drive, the applicant could not come to an agreement with the owners to hook up to the private water line.

The other option was to have the applicant construct a new water line from Highway 130 to their property to connect to County water, which would have been very costly. On September 4, 2008, the applicant requested an amendment to allow the option to develop a sufficient water storage on-site to meet the requirements of the Department of Health and the Fire Department for sanitation and firefighting instead of hooking up to County water. Although the condition was amended to allow on-site water storage, a portion of the condition still required that applicant to hook up to County water if it became available. At this time, the applicant is requesting to allow either the option of hooking up to County water or to have an on-site water storage system.

The Planning Department recommends that the condition remain as it is currently written, which allows the applicant to store water on-site if County water does not become available but still requires the applicant to hook up to County water if it does become available. With the agreement with Orchidland Gulsons, LLC in place, County water is now available and the Planning Department is recommending for the applicant to connect to the water system. Therefore, it is recommended that this amendment request **be denied.**

Condition No. 5 (access improvements): The applicant is requesting to delete portions of the condition that requires the applicant to provide improvements within the un-improved portions of Orchidland Drive up to and including the subject property's entire Orchidland Drive's frontage and to only improve one-half of Orchidland Drive in front of the subject property's Orchidland Drive frontage. The condition states the following:

"Access to the subject property from Orchidland Drive shall be designed and engineered to substantially conform to the Department of Public Works specifications for commercial driveways, without sidewalks. The applicant shall provide pavement

improvements within the un-improved portions of Orchidland Drive up to and including the subject property's entire Orchidland Drive frontage meeting with the Department of Public Works Standard Detail R-33 for Rural Collector Standards, prior to the issuance of a certificate of occupancy for the proposed development. Road improvements to Orchidland Drive as specified under this condition shall not include those obligation(s) for roadway improvements as required under Special Permit No. 569.”

The Planning Department sent a letter to the applicant dated November 1, 2010 (Exhibit D of the Special Permit Application) clarifying the Planning Department’s position regarding the required road improvements along Orchidland Drive and supports the amendment request for this condition.

The Planning Department, in consultation with the Department of Public Works, has revised this condition for access improvements and requests that this amendment request for Condition No. 5 **be approved.**

Condition No. 6 (intersection improvements): The applicant is requesting that this condition to improve the intersection of Orchidland Drive and Highway 130 with channelization, signalization and street lighting, if required by the Department of Transportation, be deleted because its cost could render the project unfeasible. The condition states the following:

“Channelization, signalization and street lighting improvements to the intersection of Highway 130 and Orchidland Drive shall be provided by the applicant if required by the Department of Transportation, prior to the issuance of a certificate of occupancy for any portion of the proposed development.”

Since this project was first approved in 1994, there have been several safety improvements to the Orchidland Drive and Highway 130 intersection, including a left turn lane, a storage lane and a deceleration lane. There are still significant concerns regarding the safety of this intersection as it is not signalized. In a recent Special Permit approval in the immediate area, a condition was added that no building permit for any portion of the proposed commercial retail office building be granted until the contract for the construction of the traffic light at the Shower Drive, Pohaku Drive and Highway 130 intersection is awarded by the State Department of Transportation and that Certificate of

Occupancy shall not be approved until the traffic light at the Shower Drive, Pohaku Drive and Highway 130 intersection is complete. This condition was added because of safety concerns at the intersection with the increase of traffic as a result of the added uses.

The Planning Department understands the applicant's request to delete this condition because of the significant cost burdens upon a single applicant. The Department of Transportation did make contact with the Planning Department and asked that the condition remain the same and not be deleted. As a result, the Planning Director does **not support deletion** of Condition No. 6.

Condition No. 7 (hours of operation): The applicant is requesting to change the hours of operation from 6:00 a.m. to 9:00 p.m. The hours of operation requested would be from 6:00 a.m. to 11:00 p.m. The applicant states that the 9:00 p.m. closing time would be too restrictive for food service establishments, gas stations, grocery stores, and places where meetings are held. The condition states the following:

“The regional trade center operations shall be limited to 6:00 a.m. to 9:00 p.m. Uses permitted within the proposed regional trade center shall be limited to those uses specified by the applicants within the Planning Director's Background Report dated May 10, 1994 as Exhibit E - Orchidland Trade Center – Project Overview and food service uses.”

Additionally, the uses permitted for this project are listed in the above referenced May 10, 1994 exhibit (refer to Planning Department Exhibit 6), which does not list gas stations and grocery stores as permitted uses as reflected within the applicant's amendment request. Food service uses were added later as an amendment on June 20, 2003. The Planning Department would like to be clear on the record that the “food service uses” proposed and approved at the time of the previous amendment in 2003 was for a restaurant and not gas stations and grocery stores.

The Planning Department received a response from the Orchidland Estates Community Association just before the Planning Commission hearing in which they were supportive of the request amend Condition No. 7 and therefore, it is recommended that this request **be approved** at this time

The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence. The project was originally approved to allow numerous uses including a hardware and garden supply store, which was designed as the anchor tenant for the project. Due to the economic downturn, the applicant has been unable to locate a credible anchor tenant or to obtain financing for the project. Without an anchor tenant, it is nearly impossible to obtain financing. They have invested over one million dollars in construction costs from their own funds. Additionally, the progress of the project was severely hampered when a hardware store was built across the street within the Orchidland Estates Convenience Center under the guise of a general store (True Value-Orchidland General Store). As a result, the applicants have had to re-design the project and identify an alternative use as the anchor tenant.

In the past, the project has been severely hampered by unexpected delays in the process of extending a County waterline to service the project site. The applicants had plans engineered and submitted to the Department of Water Supply that detailed an extension from the existing 12-inch waterline fronting the Orchidland Estates Convenience Center on Orchidland Drive. The plans were rejected by the Department of Water Supply because the owner of Orchidland Estates Convenience Center did not dedicate the existing waterline to the County. The Department of Water Supply suggested that the applicant engineer an additional waterline up the opposite (Hilo) side of Orchidland Drive from the Keaau-Pahoa Road (Highway 130) to the subject property. The applicant paid for additional plans that received a favorable response from the Department of Water Supply. It was then discovered that the applicant would need permission from the Department of Transportation to access the main waterline, which resides 6 inches within the State right-of-way on Highway 130 and which could require the applicant to conduct an Environmental Assessment. The applicant previously estimated the cost of installing a waterline from Highway 130 to the Trade Center site to exceed \$350,000. There is, in addition, a problem with obtaining an easement within the Orchidland Drive right-of-way to install the waterline because Orchidland Drive was never conveyed to the Community Association and still belongs to the original

subdivision developer, Hilo Development, an inactive corporation. On September 4, 2008, the applicant requested and received approval of an amendment to allow the option to develop a sufficient water storage system on-site to meet the requirements of the Department of Health and the Fire Department for sanitation and firefighting instead of hooking up to County water, unless County water became available. Previously, the Orchidland Community Association has found that the new proposal to truck in and store water on the property to be an acceptable alternative to the installation of a municipal water system.

All of these complications have prompted the applicant to request several amendments to conditions, including a 5-year time extension to complete construction of the proposed project. As discussed and recommended above, the Planning Director is recommending approval for several amendment requests and denial of several amendment requests.

Based on the overall information, the non-performance is the result of conditions that could not have been foreseen and are beyond the control of the applicant, and was not the result of their fault or negligence.

Approval of the selected requests would not be contrary to the General Plan or Zoning Code, or the original reasons for the granting of the Special Permit. Since the original approval of the Special Permit request, the General Plan has been amended. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map has been revised from Orchards to Rural in this area. Additionally, there is a Medium Density Urban node located across the street on the Pahoehoe side of Orchidland Drive between 35th Street and Highway 130. The zoning for the area and the property has remained the same, which is designated as State Land Use Agricultural and County Agricultural (A-3a). Therefore, the approval of this request would not be contrary to the General Plan or the Zoning Code.

Additionally, since the original approval of this Special Permit as amended, the Puna Community Development Plan (CDP) was adopted by the Hawai'i County Council, Ordinance 08 116, on September 10, 2008. The Puna CDP has identified this area as the Orchidland Neighborhood Village Center. The Orchidland neighborhood village

center location was identified by the community association to be “located along Orchidland Drive from Highway 130 to halfway between 34th and 35th Avenues”, which encompasses 15 parcels and an area of about 16 acres. The subject property is located on the boundary within the village center.

The approval of this time extension request and the selected amendments would not be contrary to the original reasons for granting Special Permit No. 870, which was approved to allow the establishment of a regional trade center and include a variety of home, garden and animal supplies; catchment supplies, sales & service; solar water heaters; office space for service businesses such as electrical, plumbing, landscaping, gardening, auto repair, farmer cooperative, home business outlet and later to include food service uses. One of the original reasons for approval for the regional trade center was to provide and promote limited industrial uses to serve the needs of residents in this area of Puna, which would not be available in the existing Orchidland Estates Convenience Center.

Conditions of approval have been updated and revised based on compliance with certain conditions and to reflect requests from governmental agencies.

Based on the above, amendments to Condition No. 2 (time to complete construction), Condition No. 5 (access improvements), and Condition No. 7 (hours of operation) are approved and amendments to Condition No. 3 (comply with design guidelines), Condition No. 4 (water storage) and Condition No. 6 (intersection improvements) are denied.

Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

CERTIFIED MAIL
Z 095 324 034

JUL 28 1998

Mr. Verne A. Wood
P.O. Box 1217
Keaau, HI 96749

Dear Mr. Wood:

Special Permit No. 870 (SPP 870)

Applicant: Verne A. and Melody Lynn Wood,
Jeffrey Phillip Bloom and Laura Ann Santi

Request: Amendment to Condition No. 4 (Complete Construction)

Tax Map Key: 1-6-10:82

The Planning Commission at its duly held public hearing on July 17, 1998, voted to approve the above-referenced request for an amendment to Condition No. 4 (complete construction) of Special Permit No. 870, as amended, which allowed the establishment of a regional trade center on approximately 1.15 acres of land within the State Land Use Agricultural District. The property is located in Orchidland Estates on the Hilo side of Orchid Land Drive approximately 1,600 feet west of its intersection with the Pahoia Government Road (Highway 130) and in the vicinity of Wiki Wiki Mart, Keaau, Puna, Hawaii.

Approval of this request is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law Rules and Regulations are intended to preserve, protect and encourage the development of lands for those uses to which they are best suited in the interest of the public welfare of the people of the State of Hawaii. The applicant originally received an administrative extension of time from the Planning Director until June 7, 1998, to complete construction on the subject property. The applicants are requesting additional time in which to complete construction of the proposed development due to existing unfavorable economic conditions. This request would not be contrary to Chapter 205, Hawaii Revised Statutes.

The desired use will also not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. The applicants are requesting an extension of four (4) years to complete

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JUL 28 1998

Mr. Verne A. Wood
Page 2

the project. This extension of time should not unreasonably burden public agencies nor have any adverse impact on existing public services to the area. The applicant would still be required to provide roadway improvements up to the frontage of the subject property in coordination with Sure Save Supermarkets, Ltd. All other agency requirements would still need to be complied with.

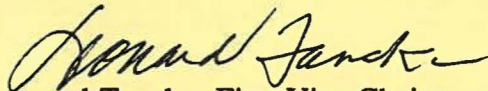
Based on the above, the request to amend Condition No. 4 of Special Permit No. 870 would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations or the original reasons for approving this permit. Condition No. 4 is amended as follows [bracketed material to be deleted and underlined material to be added]:

4. Construction of the proposed regional trade center and related improvements shall be completed and a certificate of occupancy issued within [two] four (4) years from the effective date of this [Special Permit] amendment.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions, please feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Leonard Tanaka, First Vice-Chairman
Planning Commission

LWoodV01.PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Kazu Hayashida, Director/DOT-Highways, Honolulu
Mr. Carl Okuyama

Harry Kim
Mayor



County of Hawaii PLANNING COMMISSION

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

JUL 01 2009

Mr. Verne Wood
741 Kanoelehua Avenue
Hilo, HI 96720

Dear Mr. Wood:

Special Permit (SPP 870)

Applicant: Verne and Melody Wood

Request: To Amend Special Permit No. 870 to Include the Adjoining One-Acre Parcel of Land, to Amend Condition No. 4 (Complete Construction) for the Establishment of the Orchidland Trade Center and Also to Amend Condition No. 8 by Increasing the Hours of Operation from "daylight hours" to 6:00 a.m. to 9:00 p.m., and to Allow the Addition of "food service uses"

Tax Map Key: 1-6-10:82 and 83

The Planning Commission at its duly held public hearing on June 20, 2003, voted to approve the above-referenced request to amend Special Permit No. 870. The request was to amend Condition No. 4 (complete construction) for the establishment of the Orchidland Trade Center in the State Land Use Agricultural District. The request was to also amend Condition No. 8 by increasing the hours of operation from "daylight hours" to "6:00 a.m. to 9:00 p.m." and to allow the addition of "food service uses." The properties are located in Orchidland Estates Subdivision at the northwest corner of Orchidland Drive and 34th Street, approximately 1,600 feet west (mauka) of Keaau-Pahoa Road, in the vicinity of the Orchidland Wiki Wiki Mart, Keaau, Puna, Hawaii.

Approval of this request is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law Rules and Regulations are intended to preserve, protect and encourage the development of lands for those uses to which they are best suited in the interest of the public welfare of the people of the State of Hawaii. The applicants are requesting an amendment to an existing permit to expand the development to 1) include an adjoining one-acre parcel of land; 2) allow additional time to complete construction by July 17, 2006; and 3) increase the hours of operation and expand the permitted uses to include food services. In addition to TMK: 1-6-10: 82, the proposed development would include the adjoining one-acre of land identified as TMK: 1-6-10: 83. This request would not be contrary to Chapter 205, Hawaii Revised Statutes.

JUL 01 2009

The desired use will also not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. Special Permit No. 870 was approved by the Planning Commission on June 7, 1994 to establish a regional trade center on TMK: 1-6-10: 82. The applicants are requesting an amendment to the scope of the project to include an adjacent additional one-acre parcel of land (TMK: 1-6-10: 83). Parcels 82 and 83 will be required to be consolidated. The applicants are also requesting a time extension of four (4) years to complete the project, citing unfavorable economic conditions. This extension of time should not unreasonably burden public agencies nor have any adverse impact on existing public services to the area. The applicants are also requesting an amendment to Condition No. 8 to increase the hours of operation from "daylight" hours to "6:00 a.m. to 9:00 p.m.", and to allow food service uses. Although this is an expanded use, it would not unreasonably burden public agencies to provide additional infrastructure. All other agency requirements would still need to be satisfied.

A Traffic Assessment Report dated March 17, 2003 was conducted for the proposed development by Phillip Rowell and Associates. The report concluded that 1) a traffic impact study would not be necessary given the estimated increase in traffic; 2) the levels of service will remain the same with or without the proposed project; and 3) traffic signals are warranted for existing conditions and not as a result of traffic generated by the proposed project. The Department of Public Works had no comments or objections on the traffic assessment report, and the Department of Transportation stated that the proposed amendments would not have a significant impact on State highway facilities.

Based on the above, the request to expand the project to include an adjoining one-acre parcel of land, and to amend Condition Nos. 4 and 8 of Special Permit No. 870 would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations or the original reasons for approving this permit. Related to the amendment requests, additional conditions are proposed as follows. (Material to be deleted is bracketed; material to be added is underscored):

1. The applicants, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The applicant, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury and death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit.

3. Tax Map Keys 1-6-10: 82 and 83 shall be consolidated prior to receipt of Final Plan Approval.
- [3.] 4. Final Plan Approval of the regional trade center complex shall be secured from the Planning Department in accordance with Chapter 25-243 of the Zoning Code. Plans shall identify proposed structures, paved (concrete or asphalt-concrete) driveway and parking areas associated with the proposed use. Appropriate landscaping shall be provided for the purpose of mitigating any noise and visual impacts which may be generated by the facility.
- [4.] 5. Construction of the proposed regional trade center and related improvements shall be completed and a certificate of occupancy issued within [two] four (4) years from the effective date of this [Special Permit] amendment.
- [5.] 6. The applicants shall comply with the design guidelines in the development of the proposed regional trade center as detailed by the Orchidland Estates Community Association in their letter to the Planning Director dated February 24, 1994.
- [6.] 7. Access to the subject property from Orchidland Drive shall meet with the approval of the Department of Public Works. The applicant shall provide pavement improvements within the un-improved portions of Orchidland Drive up to and including the subject property's entire Orchidland Drive frontage in a manner meeting with the approval of the Department of Public Works, prior to the issuance of a certificate of occupancy for the proposed development. Road improvements to Orchidland Drive as specified under this condition shall not include those obligation(s) for roadway improvements as require of Sure Save Supermarkets under Special Permit No. 569.
- [7.] 8. Channelization, signalization and street lighting improvements to the intersection of Highway 130 and Orchidland Drive shall be provided by the applicants if required by the Department of Transportation, prior to the issuance of a certificate of occupancy for any portion of the proposed development.
- [8.] 9. The regional trade center operations shall be limited to [daylight hours] 6:00 a.m. to 9:00 p.m. Uses permitted within the proposed regional trade center shall be limited to those uses specified by the applicants within the

Planning Director's Background Report dated May 10, 1994 as Exhibit E - Orchidland Trade Center – Project Overview and food service uses.

10. The applicant shall provide an 8-foot high chain link fence or of comparable security effect along the boundaries with the adjacent properties identified by TMK: 1-6-10:46 and 81.
- [9.] 11. The applicant(s) shall comply with applicable laws, rules and regulations of the affected agencies, including those of the Department of Health and the Fire Department.
- [10.] 12. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being complied. This condition shall remain in effect until all of the conditions of approval have been complied and the Planning Director acknowledges that further reports are not required.
- [11.] 13. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke this permit.

This approval does not, however, sanction the specific plans submitted with the request as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Mr. Verne Wood
Page 5

Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,

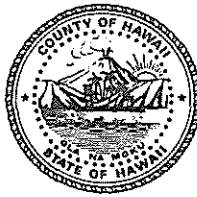


Fred Galdones, Chairman
Planning Commission

Lvernewoodpcappspp870

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Rodney Haraga, Director/DOT-Highways, Honolulu
Orchidland Gulsons, LLC

Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 Fax (808) 961-9615

CERTIFIED MAIL

June 6, 1994

Mr. Verne Wood
P. O. Box 1217
Keaau, HI 96749

Dear Mr. Wood:

Special Permit Application (SPP 94-3)

Applicant: Verne A. and Melody Wood; Jeffrey Philip Bloom and
Laura Ann Shanti

Request: Establish a Regional Trade Center

TMK: 1-6-10:82

The Planning Commission at its duly held public hearing on May 19, 1994, voted to approve the above application. By letter of May 25, 1994, Special Permit No. 870 was issued to Verne A. & Melody Lynn Wood; Jeffery Phillip Bloom; and Laura Ann Shanti to establish a regional trade center on approximately 1.15 acres of land in the State Land Use Agricultural district. The project is situated on the Hilo side of Orchidland Drive approximately 1600 feet mauka of its intersection with the Keaau-Pahoa Highway, Orchidland Estates, Keaau, Puna, Hawaii.

Special Permit No. 870 is being revised by this correspondence to reflect the Planning Commission's amendment of the Planning Director's recommendation regarding the hours of operation. Our letter of May 25, 1994 incorrectly included the Planning Director's recommended hours of operation.

Approval of this request is based on the following:

The granting of this special permit will promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law Rules and Regulations are intended to preserve, protect, and encourage

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Mr. Verne Wood
June 6, 1994
Page 2

the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii.

In the case of the Agricultural districts, the intent of the State Land Use Law Rules and Regulations is to preserve or keep lands of high agricultural potential in agricultural use. The Agricultural District not only includes lands with a high capacity or potential for agricultural uses, but also lands which are surrounded by or contiguous to agricultural lands and which are not suited to agricultural and ancillary activities by reason of topography, soils and other related characteristics.

The land on which the proposed regional trade center is located is not well suited for agricultural uses. Soil within the property, which consist of pahoehoe lava, is not classified by the Agricultural Lands of Importance to the State of Hawaii (ALISH) map system and is designated as "E" or "Very Poor" by the Land Study Bureau for agricultural productivity. Although it is possible that some agricultural activities may be conducted on the project site, approval of the subject request would not be contrary to the objectives of the State Land Use Law and Regulations given the soil's capability class rating for agricultural productivity, it not being classified by the ALISH map system, its soil structure and small parcel size. Therefore, it is anticipated that the proposed use will not adversely impact the agricultural land inventory within the County of Hawaii and not be contrary to the intent and purpose of the State Land Use Law.

The request is not contrary to goals, policies and standards of the General Plan. Approval of the proposed use would compliment the following goals and policies of the *Economic Element* of the General Plan:

- o Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.
- o The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.
- o The County shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.

Mr. Verne Wood
June 6, 1994
Page 3

The approval of this request would also be consistent with the following goals and policies of the *Land Use Element* of the General Plan which states:

- o Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- o Protect and encourage the intensive utilization of the County's important agricultural lands.
- o The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.
- o Industrial development shall maintain or improve the quality of the present environment.
- o Industrial activities may be located close to raw materials or key resources.
- o Buffer zones shall be established between industrial and adjacent noncompatible uses of land.
- o Industrial development shall be conveniently located to its labor resource.

Although the major component of the request is limited industrial in nature, its approval at this particular location would compliment the existing Orchidland Estates Convenience Center by providing and promoting limited industrial uses to create a "regional trade center" which will serve the needs of residents in this portion of Puna within a centralized and convenient location. The proposed regional trade center will provide convenient space for various trades people within the Puna area to conduct their business, thereby concentrating and promoting the talents of the people of Puna for the benefit of the entire community. The regional trade center would provide for potable water-related sales and services as well as the retail sale of hardware, garden and animal supplies. These are services which will not be available at the Orchidland Estates Convenience Center nor the immediately surrounding region, but which are essential to the residents of this portion of Puna.

The proposed use will not have any significant adverse effects on the surrounding properties. The proposed "regional trade center" will not contain activities which

Mr. Verne Wood
June 6, 1994
Page 4

would generate substantial adverse impacts of a noxious character or involve the use of noxious materials. With the exception of a home and garden center, many of the proposed uses are service-oriented, meaning that much of its business will not be conducted on the project site. Trades people such as carpenters, electricians, and plumbers will utilize the proposed trade center as a base for their operations. However, to ensure the mitigation of any adverse visual or noise impacts to adjoining single family residences, appropriate landscaping and paved access and parking areas are recommended. It is also recommended that the operation of the regional trade center be limited to daylight hours.

The proposed use will not substantially alter or change the essential character of the land and the present use. The project site is currently vacant of any use. Surrounding properties are improved as residential homesites or remain vacant. While the proposed use will change the existing character of the project site, it is a change which complements the progression of uses along this portion of Orchidland Drive. Makai of the project site along Orchidland Drive is an existing church. Mauka of the church is an existing Wiki Wiki Mart. The proposed Orchidland Estates Convenience Center will rise on the Wiki Wiki Mart site and an adjacent mauka parcel. The church, Wiki Wiki Mart and proposed Orchidland Estates Convenience Center have solidified this portion of Puna as the "core" for services to be provided to surrounding communities. Therefore, the proposed "regional trade center" will not change the character of the area, but will enhance its standing as the focal point for commercial/limited industrial uses servicing the region. A condition of approval is recommended to ensure that the proposed regional trade center accommodates only those uses as specified by the applicants. This prevents the proposed development from accommodating a use not considered by the Planning Commission.

The proposed use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. Wastewater disposal will be accommodated within an individual wastewater treatment (septic) system. The Department of Health will enforce wastewater disposal regulations. County water is available to the subject property. Other essential utilities and services are or will be made available. Access from Highway 130 to the subject property will be via Orchidland Drive, a private roadway having a right-of-way of 60 feet. Orchidland Drive is currently improved with an approximately 20-foot wide pavement from Highway 130 to a point just mauka of the

Mr. Verne Wood
June 6, 1994
Page 5

existing Wiki Wiki Mart driveway. Access then proceeds over a 20-foot wide gravel surface to the project site. It is recommended that the applicants improve Orchidland Drive to County standards beyond any roadway improvements required of Sure Save Supermarket as condition of approval of the Orchidland Estates Convenience Center (Special Permit 569). The Department of Transportation recommends that channelization, street lighting and signalization improvements be provided at the Highway 130-Orchidland Drive intersection. This intersection is already channelized and has street lighting. The extent of additional channelization and street lighting improvements and the installation of traffic signals, if any, are not known at this time. Therefore, it is recommended that a general condition requiring such improvements, if any, be provided by the applicants. All other essential public utilities, services and facilities are or will be made available to support the proposed development.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. This portion of Puna contains large subdivisions such as the 2,500+-lot Orchidland Estates Subdivision and 8,000+-lot Hawaiian Paradise Park Subdivision. These massive subdivisions are located between the towns of Keaau and Pahoia, which provides for the commercial and industrial uses which support the entire district. However, these towns are located approximately 5 miles from the project site and does not provide the level of convenience one associates with a typical residential area. Unfortunately, this portion of Puna does not contain the comprehensive infrastructural improvements which would support an Urban core such as those found in Hilo, Keaau and Pahoia. While recognizing the remote location of these subdivisions, the inability of the area to support substantial Urban development, and the need to provide limited convenience services to area residents, the applicants have sought an available land use mechanism which recognizes the opportunities to establish unusual and reasonable uses on agricultural lands to benefit the community while not compromising the integrity of the State Land Use Law and Regulations.

Based on the above consideration, it is determined that the establishment of a regional trade center is an unusual and reasonable use of land, which would not be contrary to the objectives sought to be accomplished by the Land Use Law Rules and Regulations.

Approval of this request is subject to the following conditions:

Mr. Verne Wood
June 6, 1994
Page 6

1. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The applicant, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury and death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit.
3. Final Plan Approval of the regional trade center complex shall be secured from the Planning Department in accordance with Chapter 25-243 of the Zoning Code. Plans shall identify proposed structures, paved (concrete or asphalt-concrete) driveway and parking areas associated with the proposed use. Appropriate landscaping shall be provided for the purpose of mitigating any noise and visual impacts which may be generated by the facility.
4. Construction of the proposed regional trade center and related improvements shall be completed and a certificate of occupancy issued within two (2) years from the effective date of this Special Permit.
5. The applicants shall comply with the design guidelines in the development of the proposed regional trade center as detailed by the Orchidland Estates Community Association in their letter to the Planning Director dated February 24, 1994.
6. Access to the subject property from Orchidland Drive shall meet with the approval of the Department of Public Works. The applicant shall provide pavement improvements within the un-improved portions of Orchidland Drive up to and including the subject property's entire Orchidland Drive frontage in a manner meeting with the approval of the Department of Public Works, prior to the issuance of a certificate of occupancy for the proposed development. Road improvements to Orchidland Drive as specified under this condition shall not include those obligation(s) for roadway improvements as required of Sure Save Supermarkets under Special Permit No. 569.
7. Channelization, signalization and street lighting improvements to the intersection of Highway 130 and

Orchidland Drive shall be provided by the applicants if required by the Department of Transportation, prior to the issuance of a certificate of occupancy for any portion of the proposed development.

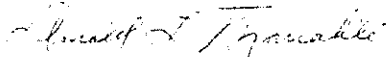
8. The regional trade center operations shall be limited to daylight hours. Uses permitted within the proposed regional trade center shall be limited to those uses specified by the applicants within the Planning Director's Background Report dated May 10, 1994 as Exhibit E - Orchidland Trade Center - Project Overview.
9. The applicant(s) shall comply with applicable laws, rules and regulations of the affected agencies, including those of the Department of Health and the Fire Department.
10. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being complied. This condition shall remain in effect until all of the conditions of approval have been complied and the Planning Director acknowledges that further reports are not required.
11. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke this permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Mr. Verne Wood
June 6, 1994
Page 8

Should you have any questions, please feel free to contact Daryn Arai or Rodney Nakano of the Planning Department at 961-8288.

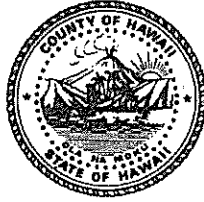
Sincerely,



Donald L. Manalili, Chairman
Planning Commission

RKN:smn

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
State Department of Transportation
State Department of Health
Fire Department
Plan Approval Section



County of Hawai'i

PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
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September 17, 2008

130 Holding LLC
c/o Mr. Verne Wood
519 Manono Street
Hilo, HI 96720

Dear Mr. Wood:

Special Permit (SPP 870)

Applicant: 130 Holding LLC

Request: Amendment to Condition 5 (Construction Time Requirement) and
Condition 6 (OLA Design Guidelines Requiring County Water)

Tax Map Key: 1-6-10:82 and 83

The Planning Commission at its duly held public hearing on September 4, 2008, voted to approve the above-referenced request for an amendment to Condition Nos. 5 (construction time requirement) and 6 (requirement of County water) of Special Permit No. 870, which allowed the development of the Orchidland Trade Center on 2.3 acres of land situated within the State Land Use Agricultural District. The property is located along the north side of Orchidland Drive, approximately 1,600 feet west of the Keaau-Pahoa Subdivision, Keaau, Puna, Hawaii.

Approval of this request is based on the following:

The applicants are requesting a five (5) year time extension to comply with Condition No. 5 of Special Permit No. 870, which was approved to allow the establishment of a regional trade center on 2.311 acres of land. General services approved for the regional trade center include a variety of home, garden and animal supplies; catchment supplies, sales & service; solar water heaters; office space for service businesses such as electrical, plumbing, landscaping, gardening, auto repair, farmer cooperative and home business outlet. Additionally, the permit was amended to include food service uses. Condition No. 5 states:

SEP 17 2008

“Construction of the proposed regional trade center and related improvements shall be completed and a certificate of occupancy issued within four (4) years from the effective date of this amendment.”

Additionally, the applicant is requesting to delete the requirement within the Orchidland Estates Community Association’s letter dated February 24, 1994 for the project to operate on county water and provide an additional fire hydrant, as required by Condition No. 6, which states:

“The applicants shall comply with the design guidelines in the development of the proposed regional trade center as detailed by the Orchidland Estates Community Association in their letter to the Planning Director dated February 24, 1994.”

Orchidland Community Association drafted a letter dated February 24, 1994, which stated certain design guidelines for the Orchidland Trade Center that were agreed upon by the Association and the applicant. The Planning Commission conditioned the applicant to comply with these guidelines as stated within the letter. One of these guidelines stated that the project was to operate on county water and provide an additional fire hydrant. The applicant is requesting to truck in and store potable water on the property for the needs of the project. The applicant is the owner and founder of Puna Water Service and has the resources to truck and store water on the property.

The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence. The project was originally approved to allow numerous uses including a hardware and garden supply store, which was designed as the anchor tenant for the project. According to the applicant, the progress of the project was severely hampered when a hardware store was built across the street within the Orchidland Estates Convenience Center under the guise of a general store (True Value-Orchidland General Store). As a result, the applicants have had to re-design the project and identify an alternative use as the anchor tenant.

Additionally, the project has been severely hampered by unexpected delays in the process of bringing a County waterline to the project site. The applicants had plans engineered and submitted to the Department of Water Supply that detailed an extension from the existing 12-inch waterline fronting the Orchidland Estates Convenience Center on Orchidland Drive. The plans were rejected by the Department of Water Supply because the owner of Orchidland Estates Convenience Center did not dedicate the waterline to the County. The Department of Water Supply suggested that the applicant engineer an additional waterline up the opposite (Hilo) side of Orchidland Drive from the Keaau-Pahoa Road (Highway 130) to the subject property. The applicant paid for

additional plans, which received a favorable response from the Department of Water Supply. It was learned that the applicant would require permission from the Department of Transportation to access the main waterline, which resides 6 inches within the State right-of-way on Highway 130 and which could require the applicant to conduct an Environmental Assessment. The applicant estimates the cost of installing a waterline from Highway 130 to the Trade Center site is expected to exceed \$350,000. There is, in addition, a problem with obtaining an easement from the work within the Orchidland Drive right-of-way because it was never conveyed to the Community Association and still belongs to the original subdivision developer, Hilo Development, an inactive corporation. The applicant is requesting to truck in and store potable water on the property for the needs of the project. The Orchidland Community Association has found that the new proposal to truck in and store water on the property to be an acceptable alternative to the installation of a municipal water system. The Planning Department would normally want to see waterlines extended to commercial projects. In this case, as well, extending the waterline would facilitate further extension into the subdivision to serve the lots within it if the subdivision lot owners would ever want a source of piped water. This was the idea behind the special permit requirement that the Orchidland Convenience Center extend the 12" waterline to their property. The Orchidland Community Association, however, seems not to be interested in this possibility given their response that they have no objection to the applicant's proposal to store water on the site. It appears that the applicant has made good-faith efforts to extend the waterline but has encountered major obstacles. A condition of approval will be added allowing the storage of water on-site meeting with the approval of the Department of Health for sanitation purposes and meeting with the approval of the Fire Department for fire-flow requirements, and to pay a fair share for water system improvements if the subdivision extends water to the property.

Based on the above information, the non-performance is the result of conditions that could not have been foreseen and are beyond the control of the applicant, and was not the result of their fault or negligence.

Approval of this request would not be contrary to the General Plan or Zoning Code, nor the original reasons for the granting of the Special Permit. Since the original approval of the Special Permit request, the General Plan has been amended. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map has been revised from Orchards to Rural in this area. Additionally, there is a Medium Density Urban node located across the street on the Pahoehoe side of Orchidland Drive between 35th Street and Highway 130. The zoning for the area and the property has remained the same, which is designated as State Land Use Agricultural and County Agricultural (A-3a). Therefore, the approval of this request would not be contrary to the General Plan or the Zoning Code.

The approval of this time extension request would not be contrary to the original reasons for granting Special Permit No. 870, which was approved to a regional trade center to include a variety of home, garden and animal supplies; catchment supplies, sales & service; solar water heaters; office space for service businesses such as electrical, plumbing, landscaping, gardening, auto repair, farmer cooperative, home business outlet and later to include food service uses. One of the original reasons for approval for the regional trade center was to provide and promote limited industrial uses to serve the needs of residents in this area of Puna, which would not be available in the existing Orchidland Estates Convenience Center.

Conditions of approval have been updated and revised based on compliance with certain conditions and to reflect requests from governmental agencies. The conditions regarding improvements to Orchidland Drive have been modified because the Department of Public Works will not inspect a driveway entering a private road.

Based on the above, the time extension request is approved by the Planning Commission with the following amended conditions (Material to be deleted is bracketed and struck through; material to be added is underscored):

1. The applicant[s], successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. [~~The applicant, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury and death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit.~~]
3. ~~Tax Map Keys 1-6-10: 82 and 83 shall be consolidated prior to receipt of Final Plan Approval.~~
4. ~~Final Plan Approval of the regional trade center complex shall be secured from the Planning Department in accordance with Chapter 25-243 of the Zoning Code. Plans shall identify proposed structures, paved (concrete or asphalt concrete) driveway and parking areas associated with the proposed use. Appropriate landscaping shall be provided for the purpose of mitigating any noise and visual impacts which may be generated by the facility.~~
5. ~~Construction of the proposed regional trade center and related improvements shall be completed and a certificate of occupancy issued within four (4) years from the effective date of this amendment.]~~

Construction of the proposed development shall be completed within five (5) years from the effective date of this amendment. This time period shall include

securing Final Plan Approval from the Planning Director in accordance with the Zoning Code. Plans shall identify proposed structure(s), fire protection measures, access roadway, driveway and parking stalls. Landscaping shall be indicated on the plans for the purpose of mitigating any potential adverse noise or visual impacts to adjoining parcels. Landscaping shall be provided in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) standards for CV zones adjoining a RS zone.

- [6-]3. The applicants shall comply with the design guidelines in the development of the proposed regional trade center as detailed by the Orchidland Estates Community Association in their letter to the Planning Director dated February 24, 1994, except for the requirement for the project to operate on county water and provide an additional fire hydrant.
4. The applicant shall develop sufficient water storage to meet the requirements of the Department of Health and the Fire Department for sanitation and firefighting purposes for the proposed development. The storage facility shall be completed prior to Certificate of Occupancy and kept filled with enough water to meet the applicable Department of Health and Fire Department requirements. If an improvement district or similar project is proposed which would make county water available to the property, the owner shall participate and pay its fair share of any applicable construction costs.
- [7-]5. Access to the subject property from Orchidland Drive shall ~~[meet with the approval of the Department of Public Works]~~ be designed and engineered to substantially conform to the Department of Public Works specifications for commercial driveways, without sidewalks. The applicant shall provide pavement improvements within the un-improved portions of Orchidland Drive up to and including the subject property's entire Orchidland Drive frontage ~~[in a manner meeting with the approval of the Department of Public Works]~~ meeting with the Department of Public Works Standard Detail R-33 for Rural Collector Standards, prior to the issuance of a certificate of occupancy for the proposed development. Road improvements to Orchidland Drive as specified under this condition shall not include those obligation(s) for roadway improvements as required ~~[of Sure Save Supermarkets]~~ under Special Permit No. 569.
- [8-]6. Channelization, signalization and street lighting improvements to the intersection of Highway 130 and Orchidland Drive shall be provided by the applicant[s] if required by the Department of Transportation, prior to the issuance of a certificate of occupancy for any portion of the proposed development.

~~[9-]~~7. The regional trade center operations shall be limited to 6:00 a.m. to 9:00 p.m. Uses permitted within the proposed regional trade center shall be limited to those uses specified by the applicants within the Planning Director's Background Report dated May 10, 1994 as Exhibit E - Orchidland Trade Center – Project Overview and food service uses.

~~[10-]~~8. The applicant shall provide an 8-foot high chain link fence or of comparable security effect along the boundaries with the adjacent properties identified by TMK: 1-6-10: 46 and 81.

9. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.

~~[11-]~~10. The applicant(s) shall comply with applicable laws, rules and regulations of the affected agencies, including those of the Department of Health and the Fire Department.

~~[12-]~~11. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being complied. This condition shall remain in effect until all of the conditions of approval have been complied and the Planning Director acknowledges that further reports are not required.

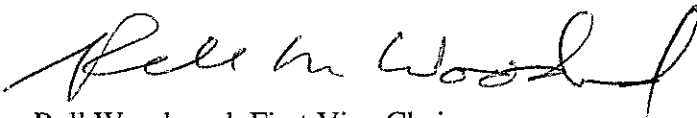
~~[13-]~~12. ~~[An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: -a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; -c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and -d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).]~~ If the applicants should require an additional extension of time, the Planning Director shall submit the applicants' request to the Planning Commission for appropriate action. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke this permit.

130 Holding LLC
c/o Mr. Verne Wood
Page 7

This approval does not, however, sanction the specific plans submitted with the request as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Rell Woodward, First Vice Chairman
Planning Commission

L130holding(wood)01PC

cc: Mr. Jeffrey Melrose
Department of Public Works
Department of Water Supply
County Real Property Tax Division,
State Land Use Commission
DOT-Highways, Honolulu
Department of Health
Fire Department